



Weekly Briefing

**North Macedonia Political Briefing:
Not-So-Strategic:
Unveiling the Reality of 'Strategic Investments' in Macedonia
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Not-So-Strategic: Unveiling the Reality of 'Strategic Investments' in Macedonia

Summary

In 2020, the SDS-DUI led majority in Macedonia's Parliament passed a law focused on strategic investments with the aim of attracting substantial capital investments, particularly in vital sectors. By 2024, a total of 13 decisions had been made regarding projects falling under the "strategic investment" framework. However, both the process through which these decisions were made and the objectives they seek to accomplish have come under intense scrutiny in recent months, amid growing concerns of corruption. This article delves into the implications of these developments, particularly through the examination of two specific projects: the cogeneration gas power plant in Skopje and the Chebren hydropower plant.

Over the past three decades, Macedonia has struggled to initiate, attract and successfully realize significant capital investments. This challenge has been particularly pronounced in critical sectors such as energy, where the country's dependence on external sources has led to energy crises and subsequent price hikes in recent years. With infrastructure and agricultural development also identified as areas in urgent need of investment, the SDS-DUI led Government proposed the introduction of so-called Strategic Investments in 2020. This article delves into the legislative framework surrounding these investments, examines the projects selected under this initiative, and offers a detailed analysis of two approved projects as case studies, shedding light on the process followed and the objectives pursued thus far.

Strategic Investments: The Background

The governance of strategic investments in the country falls under a dedicated legislation known as "The Law on Strategic Investments in the Republic of North Macedonia," which was enacted by decree of the Macedonian Assembly on January 16, 2020.¹ The legislation outlines

¹ "Law on Strategic Investments in the Republic of North Macedonia" [Закон за стратешки инвестиции во Република Северна Македонија], published on 20.01.2020 available at <https://dejure.mk/zakon/zakon-za-strateshki-investicii-vo-republika-severna-makedonija>, accessed on 01.02.2024

its jurisdiction in regulating the criteria, conditions, and procedures pertaining to the registration, determination of status, selection, preparation, and implementation of investment projects deemed of utmost strategic importance for the nation. For a project to be treated as a strategic investment project, it is necessary to fulfill one or more of the goals defined in the law such as: increasing economic growth, employment and application of new technologies and innovations, increasing the country's competitive opportunities, increasing exports and reduction of the country's trade deficit, improvement of the well-being and living conditions of the country's citizens. Another requirement for a project to be classified as a strategic investment is that it must entail an investment of at least 100 million euros and be implemented across the territories of two or more municipalities, or at least 50 million euros in municipalities with city headquarters, including those within the city of Skopje. Alternatively, it should involve an investment of at least 30 million euros in municipalities located in rural areas. The law further states that the project may take the form of a private endeavor, a public-private partnership, or a fully public initiative.²

The law emphasizes that the implementation of strategic investments must serve the public interest. Furthermore, it outlines specific criteria that strategic investment projects must meet, and delineates the sectors in which a project can qualify for strategic investment status. The conditions that must be met collectively entail ensuring that strategic investment projects comply with the Constitution, domestic laws, and international obligations, align with the strategic objectives of the Macedonian government, and adhere to environmental standards.³ The legislation also outlines thirteen specific areas in which strategic investments may be made. These encompass investments in industrial and technological parks, information technology zones, manufacturing, tourism, healthcare, agriculture, forestry, water management, transportation, telecommunications, energy, waste management, sports, science, and education. Additionally, large multifunctional construction complexes comprising more than one of these

² Law on Strategic Investments adopted in North Macedonia, published in January 2020, available at <https://www.karanovicpartners.com/news/law-on-strategic-investments-adopted-in-north-macedonia/>, accessed on 01.02.2024

³ Regulations on Strategic Investments adopted, published on 20.01.2020, available at <https://investmentpolicy.unctad.org/investment-policy-monitor/measures/3475/north-macedonia-regulations-on-strategic-investments-adopted>, accessed on 20.01.2024

areas are eligible for strategic status. Investments exceeding 150 million euros can attain strategic status regardless of whether they fall within the aforementioned areas.⁴

According to Fatmir Bitici, Deputy to the Prime Minister in charge of economic issues, coordination with economic sectors and investments: “The Law on Strategic Investments aims to encourage, attract and create conditions for easier implementation of strategic investments that are in the interest of the development of our country”.⁵ In an announcement from June 2022, Bitici provided an update on the progress of strategic investment projects in the country. By then, a total of 7 decisions had received the status of strategic investment projects. The cumulative value of investments for the projects approved by the summer of 2022 stood at a substantial 1.5 billion euros. Back in 2022 Bitici revealed that additional 6 new requests for approval of the status of strategic investment projects had been received. These new requests boasted a combined investment value of 700 million euros. Of particular note is the predominant focus on energy-related projects in the submissions.

Controversies surrounding the legislation

Towards the end of 2023, strategic investments emerged as a focal point of intense scrutiny, drawing significant attention from experts who began articulating their critiques against the law on strategic investments and the specific projects proposed under this framework. A group of experts stepped forward to outline their arguments, raising concerns about the potential implications and drawbacks associated with these investments. Their scrutiny shed light on various aspects of the law and the planned projects, prompting broader debates about their feasibility, alignment with national priorities, and potential socio-economic impacts.

⁴ Ibid

⁵ Bitici-The Law on Strategic Investments aims to encourage, attract, and create conditions for the easier implementation of strategic investments that are in the interest of the development of our country [Битиќи: Законот за стратешки инвестиции има цел да поттикнува, да привлекува и да создава услови за полесно спроведување на стратешките инвестиции кои се во интерес за развој на нашава земја], published in July 2022, available at <https://ekonomijaibiznis.mk/News.aspx?IdNews=26015>, accessed on 01.02.2024

Soon after discussions on the strategic investments began, it emerged that when the Law on Strategic Investments was originally brought, the Anti-Corruption Commission had a series of remarks. They had noted that the provisions in the law regulating transparency and the procedure for obtaining the status of a strategic investment project could produce corruption risks. The Anti-Corruption Commission considered that the provisions inadequately regulate the involvement of experts and the wider public in the selection of investment projects.⁶ The anti-corruption body also noted the absence of a legal obligation to publish all documentation regarding the acquisition of the status of a strategic investment project on the government's website, and the lack of defined procedures and conditions for selecting members of the operational group for each strategic project poses a risk of selecting unsuitable members, as well as favoritism towards certain individuals, as written in the report. In the end, after conducting analysis and assessment of the Law on Strategic Investments, the State Commission for Prevention of Corruption concluded that there are deficiencies in the Law that may produce corruption risks. Therefore, it recommended a reassessment of the provisions of the Law regulating the mentioned issues in order to eliminate the risks.

Technical experts (including engineers), also raised their suspicions with the way in which the Law had been brought; it was proposed and adopted in an exceptionally fast and non-transparent manner – a standard for a law that, in terms of both form and content, can generate corruption risks.⁷ Additionally, the Government also breached its own working schedule, according to which it was supposed to provide the material to the State Commission for Prevention of Corruption as material subject to regulatory impact assessment. Moreover, the experts have pointed out the absence of alignment between the Law on Strategic Investments and the relevant European regulation. On the day before the law was passed, on January 15, 2020, the Director of the Energy Community in Vienna, Janez Kopac, addressed the Minister

⁶ “The Anti-Corruption Commission warned four years ago that the Law on Strategic Investments carries risks of corruption” [Антикорупциска уште пред 4 години предупреди дека Законот за стратешки инвестиции носи ризици за корупција], published on 15.02.2024, available at

<https://telma.com.mk/2024/02/15/antikorupcziska-ushte-pred-4-godini-predupredila-deka-zakonot-za-strateshki-investiczii-nosi-riziczi-za-korupczija/> accessed on 16.02.2024

⁷ Three sayings and the Law on Strategic Investments [Три народни поговорки и Законот за стратешки инвестиции], published on 27.02.2024, available at

<https://novamakedonija.com.mk/uncategorized/tri-narodni-pogovorki-i-zakonot-za-strateshki-investicii/>, accessed on 28.02.2024

of Economy Kreshnik Bektashi, requesting amendments to the Law on Strategic Investments. Nevertheless, the law was passed swiftly in the 130th session of the Assembly, with a 45-minute discussion in the European Affairs Committee and a one-hour discussion in the legislative-legal committee.⁸

Considering all the anomalies of this law, on December 24, 2020, the Ministry of Economy submitted to the national registry of documents the text of the Law Amending and Supplementing the Law on Strategic Investments. The draft law includes all elements envisaged as subordinate acts in the current text of the Law, implements all remarks and recommendations given in the report on the anti-corruption review of the Law on Strategic Investments by the State Commission for Prevention of Corruption, and makes a solid attempt to transpose the relevant Regulation (EU) No. 347/2013 relating to the construction of energy projects. Nonetheless, the controversies surrounding the “Strategic Investments” did not stop there. In fact, they reached their pinnacle in December 2023 and January/February 2024, when the specific details of two proposed strategic investments became known: the Chebren hydropower plant and the cogeneration gas power plant in Skopje.

The Chebren hydropower plant

On September 14th, a consortium comprising Greece’s Public Power Corporation (PPC) and Archirodon Group secured a concession to construct the Chebren pumped-storage hydropower plant in Macedonia. This marked the 14th attempt to award the contract, with PPC-Archirodon emerging as the sole acceptable bidder. The Power Construction Corp. of China was amongst 9 consortiums that had participated in the second phase of an earlier bid for this project.⁹ The Chebren hydropower plant was planned to produce electricity and also feature a reversible pumping system, with its construction involving the creation of a new artificial lake

⁸ Ibid

⁹ Nine consortiums, companies enter second phase in Čebren hydropower plant tender, published on 17.03.2021, available at <https://balkangreenenergynews.com/nine-consortiums-companies-enter-second-phase-in-cebren-hydropower-plant-tender/>, accessed on 01.03.2024

on the river Crna Reka.¹⁰ The planned 333 MW facility had been deemed crucial for the country's energy transition to renewable energy sources. Valued at approximately EUR 1 billion, the project was planned to be executed through a public-private partnership with the state utility Elektrani na Severna Makedonija (ESM). However, even before the project signing was officially announced, it met fierce opposition.

On September 8, engineers from all Macedonian cities voiced their dissatisfaction and opposition to the government's decision to grant a concession for the use of Crna Reka water for electricity production to the Greek PPC-Archirodon. The Association of Engineers vehemently opposed this decision, citing concerns about the environmental impact and potential risks associated with the project. They argued that such a concession could have detrimental effects on the local ecosystem and water resources, and raised questions about the transparency and fairness of the decision-making process. The engineers called for further scrutiny and public consultation before proceeding with any agreements or concessions regarding the utilization of natural resources for energy production.¹¹

Their opposition intensified in the following months, succeeding in bringing the issue to the forefront of public discourse. In December the Association of Engineers of Macedonia submitted a petition to the relevant authorities regarding the decision on the concession for the Čebren hydropower plant, requesting that the process for signing the public-private partnership agreement be suspended until their concerns are investigated, confirmed, or dismissed. The petition had been submitted to the Constitutional Court, the State Prosecutor's Office, the State Commission for Prevention of Corruption, the State Audit Office, the Public Prosecutor's Office, and the Bureau of Public Procurement. In it, the engineers expressed doubt that a series of essential, legal, economic, and professional-scientific shortcomings have been made with the government's general acts in the preparation and implementation process of the public call for the concession. With these shortcomings, as they assess, sovereignty, territorial integrity, and

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¹¹ Macedonian engineers unite under the motto "Čebren and the waters must be Macedonian", published on 07.09.2023, available at

<https://www.slobodenpecat.mk/en/makedonskite-inzheneri-se-obedinuvaat-pod-mototo-chebren-i-vodite-mora-da-bidat-makedonski/> accessed on 02.02.2024

the foundations of economic relations defined by the Constitution, as well as the regulation of the territory for defense purposes envisaged by the Defense Plan of the Republic in accordance with the provisions of the Defense Law, are endangered.¹² Engineers believe that the project to build the Čebren hydropower plant through a public-private partnership is harmful and violates the country's energy independence by granting management of a water resource that, as they point out, is likely the most significant in this century.

Amidst this criticism, Minister of Environment and Spatial Planning Kaja Šukova announced that the Government is revoking the tender through which Greek firms PPC and Archirodon secured the Čebren pumped storage hydropower project. Šukova revealed that Archirodon had failed to secure bank loans according to the tender specifications, leading to the expiration of its bank guarantee by the end of December, effectively terminating the arrangement. Despite the company's attempts to renegotiate the terms of the proposed deal, the government remained steadfast in upholding the initial conditions, as asserted by the minister.¹³ Thus, the decision to revoke the license was primarily due to PPC's failure to meet the original conditions outlined in the agreement, rather than the result of the engineers' protest. However, their vocal opposition succeeded in keeping the issue in the spotlight, prompting discussions about the implications of other strategic investments in the months that followed. In January, the Association of Engineers announced its intention to launch an initiative for legislation enabling the commencement of construction of the Chebren hydropower plant utilizing local capacities. "We should adopt a law for the construction of Chebren, Galishte, Skochivir," the President of the Association Dimitrov said. "Make a law that cannot be changed no matter who comes to power. Set aside funding in advance," he added.¹⁴ Soon after, the Association

¹² The Association of Engineers submitted a petition for the concession for "Chebren"

[Здружението на инженери поднесе претставка за концесијата за „Чебрен“], published on 13.12.2023, available at

<https://360stepeni.mk/zdruzhenieto-na-inzheneri-podnese-pretstavka-za-kontsesijata-za-chebren/> accessed on 29.02.2024

¹³North Macedonia to cancel Čebren deal with PPC, Archirodon, published on 03.01.2024, available at

<https://balkangreenenergynews.com/north-macedonia-to-cancel-cebren-deal-with-ppc-archirodon/>, accessed on 14.01.2024

¹⁴ Dimitrov: We'll initiate law for constructing Chebren with local capacities, published on 03.01.2024, available at

submitted an initiative to the government and parliament to adopt a law stipulating that Čebren would be built with state funds.

Mytilineos gas power plant

In October 2022, the Government granted a strategic investment project status to the future gas cogeneration power plant under development by Greek company Mytilineos. The investment was estimated at EUR 211 million. The planned capacity is 90 megawatts (MW) to 105 MW for electricity and 135 MW to 150 MW for heat. According to the government, the strategic investment status was awarded to Mytilineos to increase the domestic production of electricity and thermal energy. The decision to build a cogeneration plant in Skopje by the Greek company Mytilineos was made several years prior to the law being submitted to Parliament, and even a year before the commencement of the public call, which has recently been formalized at the end of the Government's term. Indeed, Deputy Prime Minister in Charge of Economic Affairs, Fatmir Bitici, announced that the draft laws were introduced to Parliament in the first week of February. However, this date falls within the jurisdiction of a caretaker government, which should be responsible solely for overseeing the organization of elections, rather than passing significant legislation. Another suspicious element was that since receiving formal approval from the Government, the investment has become 80 million Euros more expensive.

As a result of such suspicious proceedings, this investment also became the target of opposition, particularly from the Association of Engineers, who in the first months of 2024 presented a compelling case against the project. "We are witnessing the ruthless destruction of Macedonia's energy sector. This is not accidental but systematic," wrote the President of the Association of Engineers Konstantin Dimitrov on February 3rd 2024. He added: "The sovereignty of a state is composed of several basic pillars: control over the territory and its

<https://mia.mk/al/story/dimitrov-well-initiate-law-for-constructing-chebren-with-local-capacities>, accessed on 03.02.2024

effective protection (the army), water supply, food supply, and energy supply. The actions of governments in recent years seem deliberately aimed at destroying the energy sector”.¹⁵

The Association presented several key arguments against the project. They questioned the estimated 290 million euros investment by Mytilineos, wondering if the figure was inflated. Additionally, they expressed concern over the proposed subsidy of 50 million euros in tax money to be paid to the investor as part of the agreement. Moreover, they raised concerns about the contract terms, which require the country to purchase electricity and heating energy from Mytilineos for 20 years. Over 30 years, the company stands to profit 3 billion euros. The engineers also doubted the government's claim that the country lacks funds to build the plant independently, especially considering the 400 million euros spent on subsidizing citizens' electricity bills in recent years. They alleged that the government is reluctant to secure funds for such projects for undisclosed reasons. Concerns were also raised about the arbitration clause, financial assistance to Mytilineos, and projected profits. Additionally, doubts were cast on the promised decrease in heating energy prices and the overall transparency of the deal.¹⁶

The engineers wrote a letter to the Energy Community expressing concerns over the contract with Mytilineos and its implications for the EU. They wrote that the damages stemming from the proposed contract for the cogeneration gas power plant with the Greek company Mytilineos are significant and long-term. The group, composed of professors, engineers, and energy experts, emphasized in their letter to the director of the Secretariat of the Energy Community, Arthur Lorkowski, the urgent need for intervention. They expressed concern that the government's actions may run counter to the provisions outlined in Regulation (EU) 347/2013. “Our Government, disregarding your recommendations, recently, in a hurried manner, amidst preparations for parliamentary and presidential elections, for the first time,

¹⁵After Čebren - the new Čebren Mytilineos, [А по Чебрен – нов Чебрен Митилинеос], published on 03.02.2024, available at

<https://novamakedonija.com.mk/makedonija/a-po-chebren-nov-chebren-mitilineos/>, accessed on 05.02.2024

¹⁶ It “stinks” when 800 million euro strategic investments are approved in a fast procedure, published on 10.02.2024, available at

<https://meta.mk/en/it-stinks-when-800-million-euro-strategic-investments-are-approved-in-a-fast-procedure/>, accessed on 22.02.2024

proceeds with the implementation of the Law on Strategic Investments, where none of the remarks provided in your letter No. NM-MC/O/jko dated January 15, 2020, have been transposed,” the letter states. It further adds that the Government, in an exceptionally non-transparent manner, without regulating the subordinate provisions of the Law on Strategic Investments, without obtaining legal opinions from competent state authorities, in a manner that may generate corruption risks, proceeds to adopt four special laws regulating the implementation of four extremely harmful and corruptive strategic contracts.¹⁷ As of the current writing, it remains uncertain whether the Mytilineos project will receive the required parliamentary approval. There have been ongoing discussions, with the contract being sent back to various relevant ministries and the government multiple times. This indicates the government's efforts to salvage and approve a deal that appears to be highly questionable and hugely detrimental.

The Mytilineos cogeneration plant and the Čebren hydropower project both exemplify the economic ramifications of the Prespa Agreement. While much attention has been given to the political consequences of the agreement, its economic impacts, which are embedded in these contracts, have received less scrutiny. However, as demonstrated in this article, these two highly expensive projects, falsely labeled as strategic, are profoundly detrimental to the nation. They are remnants of meetings that former Prime Minister Zaev had with Greek businesses at the time of signing the Prespa Agreement, underscoring the agreement's far-reaching detriments. Moreover, they present another example of the significant impact of corruption in the country, as attempts to expedite these contracts during a caretaker government further underscore the government's corrupt practices. Overall, these two projects, as well as the framework of "Strategic Investments," demonstrate that the current government is both unwilling and unable to serve the national interests in key strategic areas, as it continues to prioritize the personal gains of corrupt politicians to the detriment of the nation as a whole.

¹⁷ Ibid